

## Cho Decl. Ex. A

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3 -----X

4 HASSAN CHUNN; NEHEMIAH McBRIDE;  
5 AYMAN RABADI by his Next Friend Migdaliz  
6 Quinones; JUSTIN RODRIGUEZ by his Next  
7 Friend Jacklyn Romanoff; ELODIA LOPEZ; and  
8 JAMES HAIR,

9  
10 individually and on behalf of all others  
11 similarly situated,

12  
13 Petitioners,  
14 -against- No. 20 Civ. 1590  
15 WARDEN DEREK EDGE,  
16 Respondent.

17 -----X

18  
19 DEPOSITION OF HOMER VENTERS, M.D.,  
20 an Expert Witness herein, taken by Respondent,  
21 pursuant to Notice, via Webex videoconference, on  
22 Thursday, April 30, 2020, at 7:59 a.m., before Nicole  
23 Wexler, a Shorthand Reporter and notary public,  
24 within and for the State of New York.

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1     A P P E A R A N C E S:

2             U.S. DEPARTMENT OF JUSTICE

3             UNITED STATES ATTORNEY'S OFFICE

4             For the EASTERN DISTRICT OF NEW YORK

5             Attorneys for Respondent

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8     BY: JAMES R. CHO, AUSA

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14            New York, New York 10019

15     BY: KATHERINE ROSENFELD, ESQ.

16

17            DEBEVOISE & PLIMPTON, LLP

18            Attorneys for Petitioners

19            919 Third Avenue

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21     BY: MARK MCLENNAN, ESQ.

22

23     ALSO PRESENT:

24     MEGAN MARLOW, Bureau of Prisons

25     HOLLY PRATESI, Bureau of Prisons

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2 place to mitigate or stem the spread of COVID-19 inside  
3 the facility with focus on things like infection control  
4 and social distancing.

5 The third related to whether or not there were  
6 measurements in place to specifically identify and  
7 protect high-risk patients, patients who are at  
8 increased risk of serious illness or death can contract  
9 COVID-19.

10 Q. When you refer to high-risk patients, I want to  
11 make sure that I understand your definition of "high  
12 risk." So you're referring to those who have an  
13 increased risk of serious illness or death if they  
14 contract it and not high risk of contracting that  
15 disease; is that correct?

16 A. That is correct.

17 Q. So when we use "high-risk patients" today, that's  
18 what we'll refer to. Do you understand?

19 A. I do understand.

20 Q. Did you have any other goals going into your  
21 inspection?

22 A. Those were the areas that I identified and  
23 focused on in my work in the inspection.

24 Q. When you conducted your inspection, can you walk  
25 us through what you did as part of your inspection?

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2 Q. When you were in the isolation unit itself, did  
3 you see staff members wearing PPE?

4 A. I saw staff members --

5 MS. ROSENFELD: We lost you. I think you  
6 should start your answer again.

7 Maybe the court reporter can read back the  
8 question and you can answer it fresh.

9 (The question was read back by the court  
10 reporter.)

11 A. So in the unit itself, I saw staff members  
12 wearing loose-fitting surgical masks, but I did not see  
13 any staff members wearing N95 masks or face shields or  
14 gowns.

15 Q. Now, while you were in the isolation unit, did  
16 you observe any inmates outside of their cells?

17 A. No.

18 Q. So all of the inmates that were on isolation were  
19 locked inside their cells during your inspection?

20 A. Yes.

21 Q. Now, the PPE that you said was recommended, that  
22 is based on CDC guidelines, you said; is that right?

23 A. Yes. And also -- yes, the CDC and I think that  
24 the New York State Department of Health has similar  
25 guidelines. Everyone has the same set of guidelines of

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2 treatment.

3 Q. Now, in terms of the waste receptacle, after you  
4 saw staff members removing their PPE and throwing away  
5 their PPE, did you observe them washing their hands  
6 afterwards or otherwise?

7 A. I believe there might have been hand sanitizer in  
8 the area. I don't actually recall -- yes, I don't  
9 recall, but there's no sink in the area to wash hands.  
10 I can't -- and I believe some people were using hand  
11 sanitizer before or during the process of -- of doffing  
12 their PPE. Some people I observed removed gloves, used  
13 hand sanitizer, then put the gloves in the garbage  
14 receptacle, but I didn't do a careful tracking of when  
15 people used hand sanitizer.

16 Q. You mentioned also that it's your opinion that  
17 patients in the isolation unit or inmates should have an  
18 N95 mask; is that right?

19 A. For patients with known or suspected COVID-19,  
20 they come out of their cell, they should.

21 Q. What is the basis for that opinion that they  
22 should be wearing an N95 mask as opposed to a surgical  
23 mask?

24 A. That is the clinical standard that we've used and  
25 all the clinical settings I'm familiar with in terms of

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2 provide extra special levels of surveillance.

3 Q. Now, when you talk about special measures, you  
4 mentioned extra surveillance. What was the other factor  
5 that they should be doing?

6 A. I think that in many of these settings, I think  
7 that patients who are in these high-risk groups should  
8 be cohorted into a special housing area. They certainly  
9 shouldn't be in double cells with people who can pass  
10 COVID-19 onto them.

11 My experience in managing outbreaks is to have  
12 them in one or multiple housing areas together so that  
13 staff who work in those places can be specially trained  
14 in infection control and also facilitating active  
15 surveillance twice daily among those patients which may  
16 be more intensive --

17 Q. You broke up a little bit, so let me break that  
18 down and you can maybe answer that one by one so we make  
19 sure that we have your full answer.

20 Sir, so you mentioned that it's your opinion that  
21 for the high-risk inmates, they should be cohorted  
22 together; is that correct?

23 A. Yes.

24 Q. Is it your understanding that at the MDC, inmates  
25 in the isolation unit are in single cells?

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2 risk, so I think that the highest level of protections  
3 are needed because of the lack of negative pressure,  
4 because of the lack of infection control. I think that  
5 also my observation was that the surgical masks that are  
6 being used are very loose and don't fit the patients  
7 well, so an N95 mask is a better approach for keeping  
8 the patients safe but really the people around them  
9 safe.

10 Q. Now, the use of these N95 masks, as you just  
11 articulated, is that based on CDC guidelines?

12 A. I think that the CDC guidelines don't specify the  
13 mask. I think they say "face covering" or "a mask" for  
14 patients. But I think that what is striking about this  
15 isolation unit is that there's no negative pressure,  
16 that the staff don't have PPE, so it creates an  
17 incredibly high-risk scenario whereby I would be very  
18 concerned that every time a person comes out of one of  
19 the cells and potentially even when they don't come out  
20 of the cells, you have potential infection of the staff  
21 and other detained people.

22 Q. Now, when you spoke with the inmates, at any  
23 point in time, did you ask them to show you the soap  
24 that they had?

25 MS. ROSENFELD: Objection. I think you



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2 certainly think that if a person at MDC gets sick and  
3 they need to go to the hospital, they should go to the  
4 hospital. If they get to the hospital, they should  
5 receive the level of clinical care that they need and  
6 they should not receive a lower level of clinical care  
7 because of their status as a detainee.

8 Q. Understood. Are you aware of any inmates at the  
9 MDC that you believe, in your opinion, should be  
10 receiving treatment at a hospital as opposed to being  
11 managed at MDC itself?

12 A. Not as of today.

13 Q. Okay. In terms of steps that the MDC is taking,  
14 it's my understanding that inmates are being locked in  
15 their cells for most of the day during the week. Is  
16 that your understanding as well?

17 A. Yes.

18 Q. Is it your opinion that that's an appropriate  
19 protocol from isolating the spread of the disease?

20 MS. ROSENFELD: Objection.

21 A. I think the use of lockdown or locking people in  
22 their cells is counterproductive, because people view  
23 it as punishment and it may lead them to not tell staff  
24 about their symptoms if they thought that the next step  
25 -- if they did report symptoms, that they would be

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2 locked down even more. So I do believe that there are  
3 evidence-based ways to implement social distancing and  
4 infection control that don't require people being simply  
5 locked in cells all the time.

6 Q. When you refer to social distancing, what do you  
7 mean?

8 A. The practice of maintaining, in this case,  
9 COVID-19, a physical separation of six feet or more  
10 between people if it's possible. That requires planning  
11 and staffing and space in a correctional setting.

12 Q. Are you also aware that when they do take inmates  
13 out of their cells that they're doing it in a staggered  
14 fashion as not all inmates are coming out at the same  
15 time?

16 A. Yes. I believe that I heard some of the security  
17 staff mention that.

18 Q. Is it your opinion that that's an appropriate  
19 step for MDC to be taking?

20 A. I believe that the staggering when people eat or  
21 when they're in or out at a table or the day room, I  
22 think those are appropriate ways to limit the physical  
23 distancing between people. It's not my experience that  
24 in order to do that, one must lock everybody in the  
25 cell.

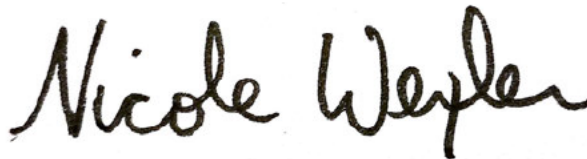
C E R T I F I C A T I O N

I, NICOLE WEXLER, a Shorthand  
Reporter and notary public, within and for the  
State of New York, do hereby certify:

That HOMER VENTERS, M.D., the witness  
whose examination is hereinbefore set forth,  
was first duly sworn by me on April 30, 2020 via Webex  
videoconference.

I further certify that I am not related to  
any of the parties to this action by blood or marriage;  
and that I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th day of April, 2020.



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NICOLE WEXLER,  
Court Reporter